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by Gianluca P. Parolin*

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Abstract

The article seeks an answer to one of the most puzzling aspects of the century-long, engaged debate on ‘citizenship’ (muwāṭana) in Egypt: its scope. How did ‘citizenship’ come to be confined to issues of religious (in)equality, thus preventing any form of meaningful engagement with other aspects of citizenship, be it political participation, gender equality, or class mobility?

The article applies the Gramscian conceptual toolkit to shed some light on the limited scope of the discourse on ‘citizenship’ in Egypt by analyzing how the hegemonic consensus on what ‘citizenship’ means was built. It identifies and characterizes three main phases in the debate, with an eye always on the scope. In its first phase (the counter-hegemonic inception), traditional intellectuals challenged the post-colonial nationalist project of the ruling class and its organic intellectuals; in its second phase (the accommodation), traditional intellectuals explored ways to find mid-ground solutions with organic intellectuals; and in its third phase (the counter-challenge), organic intellectuals were mobilized by an emerging sector of the ruling class against traditional intellectuals and their accommodation attempts. In the buildup of the hegemonic consensus, however, the main accomplishment was eminently to occupy the space of the public debate with questions of religious (in)equality.

A large, closing section is then dedicated to the analysis of a recent contribution by a prominent traditional intellectual (Ṭāriq al-Bishrī) that shows how arguments are constructed so as to provide a constraining framework of reference for the debate, and at the same time ground the hegemonic consensus in Islamicate discourse.

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I. Introduction

Why does 'citizenship' in Egypt evoke only images of religious (in)equality? Why not questions of political participation, or of gender equality, or of class mobility? This article argues that the citizenship debate is one of the prime examples of how cultural hegemony has been constructed in Egypt in the past one hundred years, and how it has served to keep to the margins some of its undesired components.

The Gramscian lens of hegemony—focusing on the non-coercive forms of domination of the ruling class—allows us to understand two key phenomena in the Egyptian citizenship debate: the construction of a hegemonic consensus around what citizenship means, and also—as a result—the marginalization of all other counter-hegemonic discourses on citizenship focusing on class, or gender, or participation in decision making. The hegemonic discourse on citizenship generated a common sense that citizenship can only mean irrelevance of religious affiliation in certain areas of the legal system.

I will mainly engage with the first prong of the argument, which can also be articulated in the reverse: the contention between traditional and organic intellectuals is only apparent. In the case of Egypt, 'organic intellectuals' are the ones upon which the ruling class that emerged with the creation of 'modern Egypt' in the first half of the 19th century relied to build consensus for the 'new order.' 'Traditional intellectuals,' on the other hand, are networks of intellectuals not engaged with the ruling class and its project, and who ground their authority in 'tradition'. When it comes to citizenship, both groups resort to Islamicate ideas and discourses, but 'traditional intellectuals' tend to refer to it as their (main) frame of reference.

In order to analyze the construction of the hegemonic discourse on citizenship, I will follow the trajectory of traditional intellectuals from counter-hegemonic stances to open conciliation with organic intellectuals. I will then consider a recent contribution of a prominent traditional intellectual (Ṭāriq al-Bishrī) to show how the two (apparently irreconcilable) discourses might be harmonized.

II. The Citizenship Debate in Egypt: Three Phases and an Overarching Hegemonic Discourse

The citizenship debate in Egypt can be described as a long war of position between organic and traditional intellectuals, but—taking a step away from the confrontation—one can easily see both parties engaged in the construction of a hegemonic discourse on citizenship that aimed at occupying the public space and preventing any other discussion of citizenship themes beyond religious (in)equality. Focusing on the war of position, one can identify three main phases of the debate that illuminate the dynamics behind the building of the hegemonic consensus (this latter consensus should be kept as the *fil rouge* of the former debate, and will be fully detailed in the following subsections): in the first phase, which I call "the counter-hegemonic inception," traditional intellectuals brought a challenge against the post-colonial, nationalist project of the ruling class and its organic intellectuals ('we do not accept any form of political affiliation beyond or below Islam'). In the second phase, "the accommodation," traditional intellectuals explored areas of accommodation with organic intellectuals ('we can work within a modern state, as long as it operates Islamically'). Finally, in the third phase, which I call "the counter-challenge," the

regime massively mobilized its organic intellectuals and brought a counterchallenge against the traditional intellectuals ('if you want to work within a modern state, then you need to accept its (=our) rules').

The most striking hegemonic element of the discourse is its scope; citizenship in Egypt is almost exclusively referred to as a shorthand for religious (in)equality. And what is even more striking is that, historically, the major breakthroughs for religious equality—like the abolition of the *jizya* or the conscription of non-Muslims in the army—had happened in the mid-1850s, long before the debate was started. Articulating a position on these breakthroughs by traditional intellectuals will be a main feature of the accommodation phase, and internal discussions among traditional intellectuals will surface in the account of that phase.

1. The First Phase: The Counter-Hegemonic Inception

In the first phase, from the late 1920s to the early 1950s, the main concern of organic intellectuals—epitomized in the thought of Aḥmad Luṭfī al-Sayyid (1872-1963) or Salāma Mūsā (1887-1958)—was the definition of 'new' political communities in national terms (*waṭan*),¹ using nationalism (*waṭāniyya*) as their ideological underpinning, and citizenship (*muwāṭana*) as the centerpiece of their engineered loyalty. The relationship between the new regimes and their organic intellectuals with colonialism was at best problematic.² In contexts like Egypt, the organic intellectuals had to engage with the colonial nature of the 'new nation', whereas in contexts like India, at stake was the de-colonization project.

Traditional intellectuals, opposed to the nationalist project, initially articulated a counter-hegemonic discourse that targeted the definition of the political community in national terms. Citizenship was criticized just as a form of engineered loyalty to the new entity, and traditional intellectuals believed that the participation of non-Muslims was the most compelling evidence of the project's wanting foundations.

Opposition to (local) nationalism was chiefly expressed in Egypt by Ḥasan al-Bannā (1906-1949), the founder of the Muslim Brotherhood. Because of his opposition to the nationalist project, al-Bannā strongly denounced the attempts to define the political community through the establishment of bonds of a lesser degree than Islam - i.e. bonds that he described as belonging to the Age of Ignorance (*al-Jāhiliyya*). Only Islam could serve as a proper political connector in his view. Arabness played a role in Islam and al-Bannā did not challenge such a role, but openly stated that Arabness—just like local and other lesser connections—could not serve as 'the' political connector: "The Muslim Brothers," he wrote, "do not believe in nationalism (*qawmiyya*) [...] and do not call [the nation] Pharaonic, Arab, Phoenician, Syrian, or any of the other expressions used by people, but believe in what the Prophet (ṢAAS) said: 'There is no preference for an Arab over a non-Arab, except on grounds of piety.'"³

¹ In order to render the semantics in Arabic, the sequence in English should be: nation, nationalism, nationality.

² Ansari points out that traditional intellectuals did not object to the 'immediate political objectives' of nationalism, such as liberation from foreign control and dominance. See ANSARI ZAFAR, *Contemporary Islam and Nationalism: A Case Study of Egypt*, *Die Welt des Islams* 7.1 (1961), at 36–38.

³ AL-BANNĀ ḤASAN, *Majmū'at Rasā'il al-Imām al-Shahīd Ḥasan al-Bannā*, Beirut 1992, at 21.

Responding to accusations of disloyalty by organic intellectuals, al-Bannā's arguments showed some ambivalence and lost some of their counter-hegemonic strength when tinkering with different definitions of community. On the horizon of organic intellectuals were the local political community (*waṭan*) and a broader Arab political community (*qawm*), whereas on the horizon of counter-hegemonic traditional intellectuals was only the Islamic political community (*umma*). *Waṭan*, *qawm* and *umma* were used in a variety of different connotations, hinting to the stark competition over both (a) the definition of 'community,' but also over (b) the political capital of the terms (in either traditional or contemporary thought).

Al-Bannā's chief compromise was with the local political community (*waṭan*), when he declared that Muslims are the most loyal and devoted to their homelands (*awṭān*, plur. of *waṭan*), but that the "foundation of their patriotism (*waṭaniyya*) is the Islamic faith (*al-'aqīda al-islāmiyya*)". Al-Bannā's argument compromised with the local dimension of the community (*waṭan*) and its form of allegiance (*waṭaniyya*), while trying to square the circle by keeping the reference to Islam as the only proper political connector.

Islam as the only proper political connector for al-Bannā thus meant that his Muslim Brothers "do not call for ethnic discrimination among classes in the community (*al-umma*) because [they] believe that Islam affords the widest protection by upholding the broadest human connector (*rābiṭa*) among humans, and recommends benevolence (*al-birr wa-l-iḥsān*) among citizens regardless of ideological or religious differences." Beyond that, however, al-Bannā wrote: "we do not buy that unity with our faith (*imān*), nor bargain for it with our belief (*'aqīda*), and do not forfeit for it the interests of Muslims (*maṣāliḥ*), but we rather buy it with truth, fairness and justice (*al-ḥaqq wa-l-iṣṣāf wa-l-'adāla*) alone."⁴

Al-Bannā's arguments resonated well beyond Egypt, and heavily influenced a prominent figure of political Islam working in India (and later independent Pakistan): Abū 'l-A' lā Mawdūdī (1903-1979).⁵ Mawdūdī further articulated al-Bannā's compromise by positing that the only acceptable form of state for traditional intellectuals was a state whose belief or ideology was Islam.

Mawdūdī developed his views in the context of pre-independence fears of either Muslims being absorbed in a Hindu-dominated state, or establishing their own state infused with nationalist ideas. He thus posited Islam as the only acceptable political connector, and opposed the creation of an independent state in Pakistan (in which the majority of the population would be Muslim, but the state would have to be built around a larger nation, with a nationalist ideology, and a citizenship connector). When that happened, however, in 1947, he and his Jamā'at-e-Islāmī pledged allegiance to the new state, but only after Pakistan was declared an Islamic state (thus ushering in a new compromising approach).

The declaration of the state as Islamic squared the circle for Mawdūdī. What to do with the non-Muslims of Pakistan, then? Mawdūdī wrote that residents of the Islamic state—a state qualified as ideological (*'aqā'idī*)—are to be distinguished between those who believe in it (Muslims), and

⁴ AL-BANNĀ, *supra* n. 3, at 88–89.

⁵ The thought of Mawdūdī and al-Bannā, the two 'founders or trailblazers of political Islam' (ESPOSITO/SHAHEEN, *The Oxford Handbook of Islam and Politics*), heavily influences later generations of traditional intellectuals (from the 'revolutionary ideologues' like Sayyid Quṭb (1906-1966), to 'intellectuals' like al-Qaraḍāwī (1926-) or al-Ghannūshī (1941-)), as will appear from the resurfacing of concepts, concerns and expressions employed by them. AL-GHANNŪSHĪ RĀSHID, *Ḥuqūq al-Muwaṭānah: Waḍ'iyyat Ghayr al-Muslim fī 'l-Mujtama' al-Islāmī*, Tunis 1989.

those who do not (non-Muslims). Because of its ideological underpinnings, the Islamic state—which has to uphold the arrangements with non-Muslims as laid out in classical fiqh (like their basic protection and jurisdictional autonomy)⁶—cannot allow non-Muslims to have any impact on its decision-making including, for instance, participating in the election of Muslim representatives.⁷ Mawdūdī conceded, however, on a separate representative body for non-Muslims.⁸

Because of the close ideological positions of two traditional intellectuals like al-Bannā and Mawdūdī, the comparison between their approaches and their reactions to the political developments in Pakistan and Egypt is even more illuminating. Citizenship (*muwāṭana*) was not per se the target of traditional intellectuals in the first phase; the political community defined in national terms (*waṭan*) was. Even in this first phase, however, signs of a shift from a counter-hegemonic discourse challenging the new states to positions that could accommodate these new states can be detected. This leads us to the next phase, where disagreement over the accommodation created a rift among traditional intellectuals.

2. The Second Phase: Hegemonic Accommodation

The second phase is characterized by a change in strategy, which eventually led to a split among traditional intellectuals. As it will be detailed in this subsection, the majority opted for an accommodation over the legitimate foundation of the political community, while some pursued the line of confrontation on this latter point, but both camps drew on arguments elaborated in the earlier phase to build their case. An essential part of the accommodation for the participation of traditional intellectuals in institutional politics was to set conditions over issues of religious (in)equality.

At the root of the accommodation was the last shift in al-Bannā's thought, which was pursued by the largest number of traditional intellectuals who followed in his footsteps, and elements of the accommodation can be seen both in the discourse on regional (Arab) and local (Egyptian) nationalism.

Towards regional (Arab) nationalism (*qawmiyya*)—which was the chief ideological trend until the mid-1960s—traditional intellectuals fluctuated from indifference to appreciation.⁹ An example of indifference can be detected in the commentary of Muḥammad al-Ghazālī (1917-1996), an influential and divisive revivalist. Whilst denouncing nationalism as a foreign plot to undo the unity of Muslims, al-Ghazālī asserted that as long as Islam could live by the side of (Arab) nationalist rule (*fī kanaf al-ḥukm al-qawmī*), it was fine. In particular, he did not see any problem (*lā junāḥ*) in (Arab) nationalist rule as long as it “enabled the Islamic system (*al-niẓām al-islāmī*) to flourish under it (*an ya 'ish fī zīlālih*).”¹⁰ Al-Ghazālī thus seemed to be content with an al-Bannā-styled coexistence, without requiring a Mawdūdī-styled Islamic frame of reference.

⁶ Article originally published in *Tarjumān al-Qur'ān* in August 1948. Translated by Khurshīd Aḥmad and published in MAWDŪDĪ ABŪ YA'LĀ, *Islamic Law and Constitution*, 2nd ed., Lahore 1960, 273–299.

⁷ Article originally published in 1955. MAWDŪDĪ, *supra* n. 6, 300–311.

⁸ *Supra* n. 6, at 296.

⁹ The organic intellectuals' attempts to bridge the divide between Arab nationalism and political Islam and extend a hand to traditional intellectuals are not the focus of this chapter, but are explored in HAIM SYLVIA, *Islam and the Theory of Arab Nationalism*, *Die Welt des Islams* 4.2 (1955), 124–149.

¹⁰ AL-GHAZĀLĪ MUḤAMMAD, *Ḥaqīqat al-Qawmiyya al-'Arabiyya wa-Uṣṭūrāt al-Ba'th al-'Arabī*, Cairo 1977, 8–23, cit. in AL-BISHRĪ, *al-Muslimūn wa-l-Aqbāṭ*, at 814.

An example of appreciation for Arab nationalism can be detected in the words of Yūsuf al-Qaraḍāwī (1926-), chairman of the International Union of Muslim Scholars and member of al-Azhar's Body of Senior Scholars. Whilst sharing al-Bannā's view on (local) nationalism—which he defined as a “*Jāhili* approach” (*nuzu ‘āt jāhiliyya*) and declared it a form of *shirk* (polytheism), as “new idols are associated to God” (*awthān jadīda ma ‘a allāh*)¹¹—al-Qaraḍāwī nevertheless saw in the Arab nationalist project of bringing together the Arab peoples (*al-shu ‘ūb al- ‘arabiyya*) a first step to further bringing together all Muslims. In order to sustain the *qawmiyya* exception to his anti-nationalist position, al-Qaraḍāwī had to resort to the ample literature in Islam's texts and traditions that upholds a certain primacy for Arabs, and went so far as to declare the connection between Islam and Arabness as ‘organic’ (*irtibāṭ ‘uḍuwī*).¹²

With the demise of regional (Arab) nationalism (soon followed by the demise of state socialism), intellectuals (both organic and traditional) focused on the local (Egyptian) articulation of nationalism. The accommodation manifested itself in this stage as acquiescence to the hegemonic discourse on Egypt as “the” political community, whose citizens were the ones permanently residing within its geographical boundaries before WW1.¹³ Issues of definition of the political community thus receded to the background, while intellectuals debated the content of membership.

In this stage the hegemonic discourse manifested itself in the participation of organic and traditional intellectuals alike in occupying the space of the debate on citizenship with issues of religious (in)equality.¹⁴ This concern with religious (in)equality is rather surprising, because no momentous or symbolic change had happened in that domain since the abolition of the *jizya* (the poll tax levied on non-Muslims) or the conscription of non-Muslims in the army in the mid-1850s, more than a century earlier.¹⁵

In this operation, traditional intellectuals engaged with the concept of status of protection for non-Muslims (*dhimma*), and the widest theoretical divide among them seemed to be on the persistence and bearing of such a status, because they in turn tended to agree on the operational rules. At one end of the theoretical continuum (almost on the verge of a counter-hegemonic discourse), Quṭb and al-Qaraḍāwī posited the persistence of the status of protection. At the other end of the continuum (more in line with organic intellectuals), scholars like ‘Uthmān, al-‘Awwā, and Huwaydī challenged such a position.

In traditional fiqh, the *dhimma* was the status of protection that some non-Muslims could contract with the imam. The only non-Muslims who could enter such an agreement were the ones collec-

¹¹ AL-QARAḌĀWĪ YŪSUF, *Ḥatmiyyat al-Ḥall al-Islāmī*, Vol. 1., *al-Ḥulūl al-Mustawrada wa-Kayfa Janat ‘alā Ummatinā*, Cairo 1977, at 54. The author also attributes to nationalism(s) the fall of the ‘Islamic fortress,’ the Caliphate (“*wa-saqāṭat al-qal‘a al-islāmiyya, al-Khilāfa*”), *ibid.*, at 55.

¹² AL-QARAḌĀWĪ YŪSUF, *Ḥatmiyyat al-Ḥall al-Islāmī*, Vol. 2, at 29, but also, Vol.1, *supra* n. 11, at 143. The author in the first volume discusses Arab nationalism in the section on the Socialist Revolutionary solution (*al-ishtirākī al-thawrī*).

¹³ See Law 26/1975 on Egyptian citizenship and all previous legislation.

¹⁴ Coptic intellectuals and the Coptic Church itself actively participated in the debate, but I am focusing here on the perspective of traditional intellectuals. See ‘ABD ALLĀH ISMĀ‘ĪL Ṣ./QILĀDA WILLIAM S./AL-‘AWWĀ MUḤAMMAD S. (eds.), *al-Muwāṭana*, Madīnat Naṣr 1998.

¹⁵ Even then, in the 1850s, these breakthroughs in religious equality were an integral part of the Ottoman reform plan to establish a fuller control by the Sultan over his subjects, and command their loyalty—especially at the Empire level. From the Khaṭṭ-i Sharīf of 1839, and the Khaṭṭ-i Humāyūn of 1856 all the way to the Ottoman Citizenship Law of 1869, the path of reforms pursued this goal over the Sultan's subjects, including identifying who they were, away from the protection schemes of foreign powers—which, incidentally, explains the prohibition of dual citizenship in the law.

tively identified as the People of the Book (*Ahl al-Kitāb*), a definition that conventionally encompassed Majūs (Zoroastrians), Naṣārā (Christians), Ṣābi'ūn (Sabians),¹⁶ and Yahūd (Jews). Sayyid Quṭb (1906-1966), the revolutionary ideologue of political Islam,¹⁷ did not question the permanence of the *dhimma*. He considered the *dhimma* to be the source of an obligation of good treatment of the protected non-Muslims, but not of loyalty towards them (*ḥusn al-mu'āmalā dūn al-muwālāh*).¹⁸ Yūsuf Al-Qaraḍāwī theorized the continuity of the contract of protection (*'aqd al-dhimma*) from which rights and obligations descend. Among these rights, al-Qaraḍāwī identified a general right to protection from foreign enemies and domestic injustice, including the protection of life, physical integrity, property, and honor,¹⁹ social welfare, the free exercise of religion (*ḥurriyyat al-taḍayyun*), and the freedom to engage in work and other economic activities. Among the obligations, al-Qaraḍāwī included the payment of *jizya* (the poll tax levied on non-Muslims), *Kharāj* (the land tax levied on non-Muslims) and the commercial tax, along with the observance of Islamic regulations of civil transactions and respect of the rites and sentiments of Muslims.²⁰

The idea of the *dhimma* as an (obsolete) historical qualification was put forward as early as 1960 by Muḥammad Faṭḥī 'Uthmān (1928-2010), "a modest, unassuming and tireless *mujaddid*, reviver and reformer of Islam."²¹ 'Uthmān stressed the necessity of transcending the old categories and qualifications encapsulated in the term *dhimma* and accepting non-Muslims as citizens with full rights.²² Elaborating on the justifications for such a transition from *dhimma* to citizenship, Muḥammad Salīm al-'Awwā (1942-), former Secretary General of the International Union of Muslim Scholars, argued that the contract of protection was terminated by the extinction of two parties under colonialism: the Islamic state and the non-Muslims living in the conquered lands.²³ For al-'Awwā, the participation of non-Muslims alongside Muslims in the struggle for liberation from colonialism established new states on new grounds: states were no longer functioning because of the legitimacy of the Conquest (*shar'iyyat al-fath*), but rather that of Liberation (*shar'iyyat al-tahrīr*).²⁴ In a further challenge to the "Islamicity" of the *dhimma* as historically practiced and legally codified in traditional *fiqh*, Fahmī Huwaydī (1937-), one of the most eminent Islamist political analysts, underlined in his celebrated work, *Muwāṭinūn lā Dhimmiyyūn*, how the *dhimma* from a positive connotation was transformed by evil practices contrary to the spirit of Islam into "an instrument to degrade and humiliate."²⁵

On a more practical level, when confronted with the issue of the applicability of the *jizya*—the poll tax levied on *dhimmīs*, and widely considered as the main marker of the *dhimma*—traditional intellectuals tended to subscribe to the connection between the *jizya* and military service, regardless of their different theoretical assessments on the persistence of the *dhimma*. If the rationale for

¹⁶ On the problematic identification of the Sabians, see the two entries in the *Encyclopaedia of Islam*, Second Edition, 'Ṣābi' and 'Ṣābi'a.'

¹⁷ AL-BANNĀ, *supra* n. 3.

¹⁸ QUTB SAYYID, *Naḥw Mujtama' Islāmī*, 9th ed., Cairo 1993, at 65.

¹⁹ Clearly reminiscent of abū Ḥamid al-Ghazālī's five *maqāṣid* in the *ḍarūriyyāt* category—with the obvious absence of religion (*dīn*).

²⁰ *Adā' al-jizya wa-l-kharāj wa-l-ḍarība al-tijāriyya, wa-iltizām aḥkām al-qānūn al-islāmī fī 'l-mu'āmalāt al-madaniyya wa-naḥwihā, wa-'ākhīr* iḥtirām sha'ā'ir al-muslimīn wa-mashā'irihim. AL-QARAḌĀWĪ YŪSUF, *Ghayr al-Muslimīn fī 'l-Mujtama' al-Islāmī*, Cairo 1977, at 21.

²¹ These are the words used by Esposito in the foreword to 'Uthmān's biography. OSMAN GHADA, *A Journey in Islamic Thought. The Life of Faṭḥi Osman*, London/New York 2011, at xiv.

²² FAṬḤĪ 'UTHMĀN MUḤAMMAD, *al-Fikr al-Islāmī wa-l-Taṭawwur*, Cairo 1960.

²³ AL-'AWWĀ MUḤAMMAD SALĪM, *al-Fiqh al-Islāmī fī Ṭarīq al-Tajdīd*, Beirut 1998, at 74–75.

²⁴ *Supra* n. 23, at 62.

²⁵ *Sabil[an] ilā al-intiqāṣ wa-l-mahāna*. HUWAYDĪ FAHMĪ, *Muwāṭinūn lā Dhimmiyyūn*, Cairo 1985, at 125.

the *jizya* was the non-service of *dhimmi*s in the army, then their full conscription in the mid-1800s marked the end of the *jizya*.²⁶ The position was embraced both by authors that affirm the continuity of the *dhimma* like al-Qaraḍāwī,²⁷ and those who affirm its termination like al-ʿAwwā.²⁸ A significant exception was Quṭb, who conceived of the *jizya* as an expression of the principle of equality. For Quṭb, non-Muslims were called to contribute to the treasury just like Muslims were with the zakah. In his overview, Shāhīn concludes that there is consensus (*ijmāʿ*) on the termination of the *jizya* either as a form of acceptance of reality or on the basis of the disappearance of the historical context of the conquest or in consideration of the partaking of non-Muslims in the defense of the homeland (*waṭan*).²⁹

On the same practical level, when it comes to the access of non-Muslims to public posts, traditional intellectuals tended to differentiate between ordinary state posts, open to everyone, and other positions, open only to Muslims. These 'other' positions were variously defined in scholarship. Al-Qaraḍāwī and al-ʿAwwā, for instance, recognized the exclusion of non-Muslims from positions with a 'religious connotation' (*ṣabgha dīniyya*). In the positions with a 'religious connotation' al-Qaraḍāwī included the presidency, army leadership, adjudication among Muslims, and collection of zakāh,³⁰ while al-ʿAwwā did not mention adjudication at all, and narrowed the exclusion in army leadership to cases of *jihād*. Al-ʿAwwā did affirm, however, that the participation of non-Muslims in the army, government, and representative councils is contingent on their non-performance of any act with 'religious connotation'.³¹ ʿAbd al-Qādir ʿAwda (1906-1954)³² and ʿAbd al-Karīm Zaydān (1917-2014)³³ shared a similar view. Huwaydī—citing al-Fārūqī (1921-1986), a co-founder of the International Institute of Islamic Thought—argued that non-Muslims need to be excluded from all positions where decision making is premised on a personal commitment to Islam.³⁴ On this issue again we see that the positions do not necessarily descend from the theoretical premise on the persistence of the status of protection.

The turn of most traditional intellectuals to accommodation within the hegemonic discourse generated a response in the form of a counter-hegemonic offshoot. Traditional intellectuals who carried on with the confrontation that al-Bannā (and Mawdūdī) had initiated represented quite

²⁶ Historically, the termination of the *jizya* in Egypt by Saʿīd (r. 1854-1863) anticipated the Khaṭṭ-i Humāyūn of 1856 by over almost two years according to a recent study and went hand-in-hand with the conscription of Copts. The termination of the *jizya* by the Khaṭṭ-i Humāyūn of 1856 for all the Ottoman provinces was followed by the introduction of an alternative conscription tax for those non-Muslims who kept not serving in the army, the *badaliyya* 'askariyya—which generated a strong backlash against non-Muslims, especially in the Levant. MAḤMŪD AYMAN, *al-Jizya fī Miṣr 1713-1856*, Cairo 2009, at 185–225.

²⁷ AL-QARAḌĀWĪ, *supra* n. 20, at 33.

²⁸ AL-ʿAWWĀ, *supra* n. 23, at 75.

²⁹ SHĀHĪN ʿIMĀD, *al-Muwāṭana Mawḍūʿim li-l-Fikr wa-l-Baḥth. al-Khiṭāb al-Islāmī fī Miṣr*, in: Abū Zayd ʿAlā et al. (ed.), *al-Muwāṭana al-Miṣriyya wa-Mustaḡbal al-Dīmuqrāṭiyya*, Cairo 2005, at 141.

³⁰ AL-QARAḌĀWĪ, *supra* n. 20, at 46.

³¹ AL-ʿAWWĀ, *supra* n. 23, at 76.

³² ʿAwda frames the issue of *dhimmi*s within a broader, apologetic reflection on the concept of equality in Islamic criminal legislation. He argues that a consequence of the *dhimma* is the *dhimmi*s' commitment to Islamic law (*li-anna al-dhimmi wa-qad iltazam aḥkām al-islām* [...]). ʿAWDA ʿABD AL-QĀDIR, *al-Tashrīʿ al-Jināʿī al-Islāmī Muqāraran bi-l-Qānūn al-Waḍʿī*, Vol. 1, Beirut (s.d.), at 332–333.

³³ In his doctoral thesis defended in 1962, and published two decades later, Zaydān explicitly allows the participation of *dhimmi*s in presidential and parliamentary elections. ZAYDĀN ʿABD AL-KARĪM, *Aḥkām al-Dhimmiyyīn wa-l-Mustaʿminīn fī Dār al-Islām*, Baghdad 1982, 83–85.

³⁴ *Illtizām shakhṣī bi-l-islām*. Cit. in HUWAYDĪ, *supra* n. 25, 170–171.

a marginal trend, and to their marginalization heavily contributed the efforts of both organic intellectuals and traditional intellectuals engaged in the accommodation.

The idea that political bonds of lesser degree than Islam belong to the Age of Ignorance (*al-Jāhiliyya*), and need thus to be discarded, was retained as a main feature of two quite different trends of thought, the Salafi and Jihadi currents.³⁵ This is particularly clear in the rhetoric of both the (Salafi) Jamā'a Islāmiyya,³⁶ and the (Jihadi) Jamā'at al-Jihād. Refusing the idea of a political community defined in national terms, Salafi³⁷ and Jihadi³⁸ thinkers tended then to frame the issue of relations with others living on the same territory in terms of *al-walā' wa-l-barā'* (loyalty to fellow Muslims and disavowal of non-Muslims).

On the grounds of *al-walā' wa-l-barā'* discourse this counter-hegemonic offshoot also engaged the accommodating (traditional) intellectuals, challenging their accommodation as a form of collaboration in the hegemonic project of the ruling class and its organic intellectuals. Al-Ṣawāḥirī (1951-), for instance, as one of the main ideologues of al-Qā'ida accused the Muslim Brotherhood of having committed "grave sins and ideological lapses" in accepting the concept of citizenship of non-Muslims. It is interesting that al-Ṣawāḥirī did not cite in support of his position al-Bannā (the originator of this renewal), but rather classics like al-Qurṭubī (d. 1273) and Ibn Taymiyya (d. 1328).³⁹

3. The Third Phase: The Counterchallenge

The third phase of the debate was precipitated in the early 2000s by the counterchallenge of the Egyptian regime against its opposition, which was ideologically framed as a challenge by state nationalism to political Islam. Citizenship was brought back to the center of the debate by President Mubārak's son Jamāl, who mobilized *en masse* the regime's organic intellectuals against traditional intellectuals. Jamāl Mubārak's political ascent, one could even argue, was centered around the revival of the citizenship debate. In resorting to citizenship, Jamāl pursued three main goals: reviving Egypt's ruling party ideology with injections from political liberalism, grounding a neoliberal economic vision that would favor his constituency in the private sector, and challenging the opposition on what was perceived as a favorably uneven playing field.

The mobilization of organic intellectuals by Jamāl started at the ruling party level, the National Democratic Party (NDP). The NDP's poor performance in the 2000 parliamentary elections allowed Jamāl to put forward a plan to reform the party. Central to the reform plan was the retirement of the last vestiges of state socialism that still lingered in the official rhetoric (and in the constitution), and the embracing of political liberalism. Organic intellectuals were rallied under the slogan 'al-Fikr al-Jadīd' (New Thinking), and, under this label, political liberalism began being injected into the NDP discourse. The party's annual conventions started revolving around

³⁵ It is worth mentioning that those within the Egyptian Salafi galaxy that later decided to engage in active politics sidelined this line of argument and joined the accommodation bloc.

³⁶ AL-JAMĀ'A AL-ISLĀMIYYA, *Mithāq al-'Amal al-Islāmī*, Cairo 1987, at 206.

³⁷ For a (biased) survey of the positions of Salafism on citizenship, and a (useful) mapping of political articulations of Salafism, see, ḤASANAYN TAWFIQ IBRĀHĪM, *al-Salafiyyūn wa-l-Muwāṭana: Idṭirāb al-Ru'ya wa-Ghiyāb al-Murāji'āt al-Fiqhiyya*, Cairo 2013.

³⁸ AL-ṢAWĀHIRĪ AYMAN, *Al-Walā' wa-l-Barā': 'Aqīda Manqūla wa-Wāqi' Maḥqūd*, s.l. 2002.

³⁹ See the discussion reported in SHAHĪN, *supra* n. 29, at 148–149. *Al-walā' wa-l-barā'* is still the horizon of the current debate on citizenship within Salafism; see WRIGHT BRIAN, *The Legal Methodology of the Salafi Movement in Egypt* [MA Thesis at American University in Cairo, 2012], at 55–58.

these concepts as early as 2002, when Jamāl was appointed to head the Policies Secretariat. The 2003 annual convention, in particular, worked on a white paper titled *al-Fikr al-Jadīd wa-Ḥuqūq al-Muwāṭīn* (The New Thinking and the Rights of the Citizen). The first point of the white paper was “the revival (*iḥyā*) of the concept of citizenship and the renewal (*taḥdīth*) of the structural relationship between the citizen (*al-muwāṭīn*) and the state (*al-dawla*).”

The mobilization of organic intellectuals extended far beyond the ruling party; almost all institutions and associations organized events, workshops or conferences on citizenship in the 2000s. Perhaps the best example is the massive, two-volume collection of proceedings of the annual meeting of the Center of Political Research and Studies in 2003. Its 1407 pages feature all the most prominent Egyptian intellectuals of the time engaging with the concept of citizenship.⁴⁰

The counterchallenge eventually generated two cycles of amendments to the 1971 Constitution, one in 2005 and one in 2007.⁴¹ In the latter amendment cycle, “citizenship” (*muwāṭana*) even became the rhetorical centerpiece of Egypt’s form of state, substituting “the alliance of the working forces of the people” as the basis of Egypt’s system of government (Article 1).⁴² The amendment to Article 1 was presented as part of a general purging of the socialist terminology, but so were other controversial amendments, like the one that entrenched violations of constitutional rights under pretext of anti-terrorism (Article 179).⁴³ In the reading of the constitutional amendments in the Upper House (*Majlis al-Shūrā*), there was a moment in which a challenge to the hegemonic discourse on citizenship was brought by Rif‘at al-Sa‘īd, Secretary General of al-Tajammu‘ (an opposition party on the left of the political spectrum). Questioning the clarity of what was meant by “citizenship”, al-Sa‘īd proposed the addition of the following clause: “which means full equality (*musāwāh*) among citizens irrespective of gender, religion or social class.” This suggestion—which was rejected—was made probably to push back on Jamāl’s neoliberal approach.

A dignified position of citizenship in the constitution served different items on Jamāl’s political agenda, including challenging traditional intellectuals. In particular, a strong statement in the sense of full (formal) equality to be enshrined in the constitution in the form of ‘citizenship’ fit such an agenda by offering grounds for agitating the spectrum of a discourse of political relations based on unequal standing by the Muslim Brotherhood and its base of traditional intellectuals. In other amendments of the same cycle, one can also identify this very goal. A clause was added, for instance, to art. 5 prohibiting all political activity within a religious frame of reference

⁴⁰ ABŪ ZAYD ‘ALĀ/RA’ŪF ‘IZZAT HIBA (eds.), *al-Muwāṭana al-Miṣriyya wa-Mustaḡbal al-Dīmuqrāṭiyya: Ru‘ā Jadīda li-‘ālam Muṭaḡhayyir*, Cairo 2005.

⁴¹ The amendments were actually first presented at the 2006 convention of the NDP by Jamāl Mubārak himself. What citizenship fully represented in his vision has not been fully identified, but was strongly connected with the idea of economic empowerment of the individual in a neoliberal landscape, away from any previous focus on the social and with a view to progressively abandon any form of substantial wealth redistribution policies.

⁴² The 1971 formula read that the Arab Republic of Egypt was a state with “a socialist, democratic system based on the alliance of the working forces of the people.” After the 2007 reform, the article read: “a democratic system based on citizenship” (*niẓāmuḥā dīmuqrāṭī yaqūmu ‘alā asās al-muwāṭana*).

⁴³ The 1971 text, which provided for the Socialist Public Prosecutor, was substituted in 2007 with a provision on counter-terrorism. The provision allowed state institutions to disregard fundamental rights of suspect terrorists, and gave to the President the right to refer “any crime of terrorism” to any judicial authority. The practice of referring civilians to military courts thus suddenly became constitutional.

(*marji'yya dīniyya*), and was read as an attempt to constrain the Muslim Brotherhood, whose candidates had performed really well in the 2005 general elections.⁴⁴

Reactions to the massive mobilization of the counterchallenge were rather tepid, both in the circles of traditional intellectuals, and in the state institutions called to implement the new vision. Traditional intellectuals did not significantly alter the positions they had articulated during the second phase:⁴⁵ a number of earlier publications on citizenship were simply reprinted, while no major theoretical shift was recorded. State institutions, for their part, never fully espoused the citizenship discourse (signaling a halfhearted embrace of Jamāl's political agenda), which never featured even in their official narratives, not even in the decisions of higher courts.

III. The Hegemonic Consensus

The hegemonic consensus on the restriction of the debate on citizenship to issues of religious (in)equality seemed to crumble in 2011, when the Revolution reopened the discussion on questions of political participation, class and gender. With the contribution of traditional and organic intellectuals, however, the constitution-making process put a lid back on the revolutionary enthusiasm – a lid cloaked in citizenship rhetoric.⁴⁶ After 2011, the constitutional provision enshrining 'citizenship' was maintained, sidelined or otherwise returned to in line with the positions of the actors (organic or traditional), but still betraying the overarching, hegemonic consensus on what citizenship should mean, and thus prevent its use in more progressive discourse.

In early 2011, Article 1 was reproduced verbatim in the interim Constitution by the military junta, but removed from the 2012 Constitution drafted by a Constitutional Assembly in which traditional intellectuals were heavily overrepresented because of the electoral success of the Brotherhood and al-Nūr Salafis. Showing some unease with the citizenship rhetoric, traditional intellectuals opted for a non-descriptive reference to the "democratic system" of Article 1, and expounded on the foundations of such a system in Article 6, which read: "the political system is based on the principles of democracy and consultation (*shūrā*), citizenship—which makes all citizens equal in public rights and duties—, political and party pluralism, peaceful transfer of power, the separation and balance of powers, the rule of law, the respect of human rights and freedoms." Citizenship thus became 'one of the many' foundations of the political system, and the explanatory clause ("which makes all citizens equal in public rights and duties") was also introduced to rule out any other possible interpretation beyond the hegemonic understanding of citizenship as religious (in)equality in certain areas of the legal system, namely public rights and duties.

After the ousting of Muḥammad Mursī, the situation reversed and the 2014 Constitution was drafted by a Committee in which organic intellectuals became heavily overrepresented because of the direct appointment by the Interim President. They reverted to the 1971 text as amended in 2007, just adding to 'citizenship' a reference to the rule of law. In its final form, Article 1 now

⁴⁴ HAMZAWY AMR, Political Motivations and Implications, in: Brown Nathan J./Dunne Michele/Hamzawy Amr (eds.), *Egypt's Controversial Constitutional Amendments*, Washington 2007, at 6–7.

⁴⁵ A good example of this trend is 'IMĀRA MUḤAMMAD, *Ukdhubat al-Idtihad al-Dini fi Miṣr*, Cairo 2000.

⁴⁶ On the seizing of the constitutional (Big Bang) moment in Egypt and its consequences see PAROLIN GIANLUCA P., Constitutions Against Revolutions: Political Participation in North Africa, *British Journal of Middle Eastern Studies* 42 (2015), 31–45, at 37–40.

reads: "the republican, democratic system is based on citizenship (*muwāṭana*) and the rule of law (*siyādat al-qānūn*)."

The turmoil that followed 2011 could suggest a shift from the hegemonic consensus on citizenship, especially considering the brutality with which both organic and traditional intellectuals seemed to be at each other's throat. Surprisingly, however, the recent contribution of one of the most prominent contemporary intellectuals appears to suggest otherwise, as we will explore in the following section

IV. Grounding the Hegemonic Consensus in Islamicate Discourse: Ṭāriq al-Bishrī

As the hegemonic consensus on citizenship was being sealed and entrenched in constitutional documents, how did traditional intellectuals (re)articulate their positions? In this last section of the article, I zoom in on a recent contribution that illustrates the quest by a prominent traditional intellectual, Ṭāriq al-Bishrī (1933-), for a framework for the hegemonic consensus on citizenship that is both coherent and grounded in Islamicate discourse. I will closely follow the unfolding of his thought as it offers in illuminating insight into how the goal of hegemonic consensus seems to guide and constrain the intellectual inquiry.

Ṭāriq al-Bishrī (1933-) is a Cairo University graduate who spent his entire professional life in Egypt's Council of State. He has participated in the citizenship debate for over three decades and injected into it his ample knowledge of the contemporary Egyptian legal system. He is counted among the traditional intellectuals because of his desire to ground his positions in Islamicate discourse.

Al-Bishrī started considering the issue of citizenship as early as 1980 in his *al-Muslimūn wa-l-Aqbāt fī Itār al-Jamā'a al-Waṭaniyya* (Muslims and Copts in the Framework of the National Community).⁴⁷ He has continued thinking about the issue since then, has extensively published on the subject, and has recently pushed his analysis to a further level of maturity in a short essay entitled: 'al-Jamā'a al-Waṭaniyya fī Ḍaw' Maqāṣid al-Sharī'a al-Islāmiyya' (The National Community in the Light of the Objectives of Islamic Law), published in 2014.⁴⁸ It is in this last work ('al-Jamā'a al-Waṭaniyya') that we will follow the unfolding of al-Bishrī's thought and his search for a framework for the hegemonic consensus.

In 'al-Jamā'a al-Waṭaniyya' (2014), al-Bishrī opens his contribution by situating his analysis within the *maqāṣid* stream—a renewal stream that emphasizes a teleological reading of the law by focusing on the *maqāṣid al-sharī'a* (lit. aims or purposes of the law)—, and warning the reader of the dangers of not considering political concepts like the 'national community' within the historical practices that lend these concepts their intellectual significance.⁴⁹ After tracing an Aristotelian account of the historical development of the national community as a political commu-

⁴⁷ Itself republished in 2004 by al-Shurūq.

⁴⁸ AL-BISHRĪ ṬĀRIQ, *al-Jamā'a al-Waṭaniyya fī Ḍaw' Maqāṣid al-Sharī'a al-Islāmiyya*, in: al-'Awwā Muḥammad Salīm (ed.), *Taf'īl Maqāṣid al-Sharī'a fī 'l-Majāl al-Siyāsī: Majmū'at Buḥūth*, London 2014, 115–58.

⁴⁹ AL-BISHRĪ, *supra* n. 48, at 117.

nity embracing a variety of forms of affiliation and sub-units, al-Bishrī moves to define 'citizenship' in rather conventional ways, as the "status (*ṣifa*) of the individual who belongs to a certain political community as defined by the state".⁵⁰

Al-Bishrī then sifts Islam's texts and traditions for indicators of *maqāṣid* on human communities. As a result, he identifies in the *Ṣaḥīfa*—the political arrangements of Yathrib after the hijra (also known as the Constitution of Medina) and recorded in Ibn Ishāq's *Sīra*—a foundational moment in the establishment of a political community beyond the previous forms of affiliation.⁵¹ Al-Bishrī argues that even an historical event can be a source of *maqāṣid*, especially if it captures a fundamental transformation such as the establishment of the first Islamic community in its political form in Medina.⁵² In reading the *Ṣaḥīfa*, al-Bishrī stresses how it encompassed lower units (like kin groups) into a larger community⁵³ without displacing the former and their forms of affiliation.⁵⁴ And citing "*wa-inna al-mu'minīna ba'dhum ma'wālī ba'dhīn dūn al-nās*" he concludes that the higher form of affiliation was the bond of faith or Islam which is the foundation of what would be today called the 'political community' and 'citizenship'.⁵⁵ In al-Bishrī's reading, this community—the first state (*dawla*) that Islam has known—transcended older affiliations without obliterating them, embraced non-Muslims on an equal footing whilst being founded on a dogmatic religious basis, established the principle of equality and solidarity in view of the common protection against the enemy, and was also the first state (*dawla*) that Islam has known.⁵⁶

When considering the Islamic 'political community,' later scholars—argues al-Bishrī—were consumed with a concern for unity. He takes *al-Aḥkām al-Sultāniyya wa-l-Wilāyāt al-Dīniyya* by al-Māwardī (d. 1058) as an example of this concern for unity. Unity was, however, reconsidered after the abolishment of the Caliphate in the 1920s, and al-Bishrī cites three authors justifying pluralism (*ta'addud*) within the political community: Rashīd Riḍā (1865-1935),⁵⁷ Muṣṭafā Ṣabrī (1869-1954),⁵⁸ and 'Abd al-Razzāq al-Sanhūrī (1895-1971).⁵⁹ Political Islam on the other hand, concedes al-Bishrī, did resist the idea of pluralism within the political community; the positions of Mawdūdī, al-Bannā, al-Ghazālī, or al-Qaraḍāwī can be explained within the context of their resistance to the threat of nationalism. While these latter authors did indeed challenge pluralism as a proxy of nationalism, what they were really aiming at was Islamic rule (*an yakūn al-ḥukm islāmiyyan*). Al-Bishrī summarizes it as a need for (1) the reference (*marjī'iyya*) of the various political systems and (2) the parameters (*mu'āmalāt*) that rule the community to be Islamic. Beyond

⁵⁰ AL-BISHRĪ, *supra* n. 48, at 120.

⁵¹ The *Ṣaḥīfa* plays an important role also in the view of many other scholars trying to define citizenship within an Islamic frame of reference. See the ones cited in SHĀHĪN, *supra* n. 29, at 136.

⁵² AL-BISHRĪ, *supra* n. 48, at 123.

⁵³ "And with their kins and communities they became one nation (*umma*)—that is: one community (*jamā'a*); and from the multiplicity of communitarian affiliations they became a community with one affiliation (*Fa-hum bi-aqwāmihim wa-jamā'āti-him al-muta'addida ṣārū umma^{am} ayy jamā'a, wa-hum ma'a ta'addud intimā'āti-him al-jamā'iyya ṣārū jamā'a^{am} dhawī intimā' wāḥid*)."
AL-BISHRĪ, *supra* n. 48, at 123.

⁵⁴ Citing the section where the *Ṣaḥīfa* establishes that the Quraysh who left Mecca "are responsible for each other as a group (*'alā rab'atihim yata'āqalūn baynahum*)."
AL-BISHRĪ, *supra* n. 48, at 123.

⁵⁵ (Believers protect each other against the enemy), AL-BISHRĪ, *supra* n. 48, at 124.

⁵⁶ AL-BISHRĪ, *supra* n. 48, at 124–125.

⁵⁷ RIḌĀ RASHĪD, *al-Khilāfa aw al-Imāma al-'Uzmā*, Cairo 1923, cit. in AL-BISHRĪ, *supra* n. 48, at 126–127.

⁵⁸ ṢABRĪ MUṢṬAFĀ, *al-Nakīr 'alā Munkarī al-Ni'ma min al-Dīn wa-l-Khilāfa wa-l-Umma*, Beirut 1924, cit. in AL-BISHRĪ, *supra* n. 48, at 127–128.

⁵⁹ AL-SANHŪRĪ 'ABD AL-RAZZĀQ, *Le Califat, son évolution vers une Société des Nations Orientales*, Paris 1926, cit. in AL-BISHRĪ, *supra* n. 48, at 128–129.

Islamic rule, all other issues -- whether unity or pluralism within the community itself, the system of citizenship, or even state sovereignty (*ḥākimiyya*) -- are open to discussion and conceptualized in the Islamic perspective within historical dynamics.⁶⁰

Moving into the definition of citizenship in Islam, al-Bishrī claims that the equality element at its core is firmly established in Islam's texts and tradition, even if historical circumstances or political considerations might have, at times, steered the relations between Muslims and non-Muslims in other directions.⁶¹ Beyond citizenship's core of equality, however, remain controversial issues like the access of non-Muslims to positions of public authority (*al-wilāyāt al-ʿamma*); al-Bishrī is keen to discuss this point, but before doing so warns against the decontextualized use of legal opinions (fatwas). He does this by wittily referring to a scholar whose opinions are the most cited in discussions on the status of non-Muslims often without proper contextualization: Ibn al-Qayyim (d. 1350).⁶²

In analyzing the concept of *wilāya*, al-Bishrī looks first at the Qur'anic verses that are invoked in support of its limitation to Muslims alone (Q. 3:28, 5:51, 5:57, 4:144, 4:138-9, 60:9, 60:1). He relies on the *tafsīr* literature of modern scholars like ʿAbduh, Riḍā, and Quṭb, but also that of traditional scholars like al-Qurṭubī (d. 1273) and Ibn Kathīr (d. 1373). While challenging the scope of the verses, al-Bishrī reaffirms the point that resorting to the context of revelation (*asbāb al-nuzūl*) is not a way to historically bracket the revelation, but rather to identify the circumstances (*munāsabāt*) that allow the scholar to apply the same ruling (*ḥukm*) to comparable situations.⁶³

When it comes to the meaning of *wilāya*, al-Bishrī briefly points to its semantic richness and then parses its use by traditional scholars like Ibn al-Qayyim. He dissects the episodes that the latter cites to justify the prohibition of employing Jews in any matter related to it or other affairs of Muslims (*fī shayʾ min wilāyāt al-muslimīn wa-umūrihim*).⁶⁴ Just as with the controversial interpretations of the Qur'anic verses, al-Bishrī points to the particular context of both the prophetic episode in the wake of the Battle of Badr, and the caliphal practice of ʿUmar employed by Ibn al-Qayyim. He then challenges the depiction of historical events as law (*fiqh*) without engaging with the proper fiqh methodology.

After sketching the main positions in the current debate, al-Bishrī concludes that the principle of equality as expressed in the maxim "their rights are our rights, their duties are our duties"⁶⁵ is not questioned; what requires further fiqh engagement—in the spirit of citizenship—is the issue of the right to take up key state posts and leading policy functions, be it in the judiciary, the army or the public administration, or elsewhere—what traditional scholars used to refer to as the '*wilāyāt ʿamma*.'⁶⁶

⁶⁰ AL-BISHRĪ, *supra* n. 48, at 131–132.

⁶¹ AL-BISHRĪ, *supra* n. 48, at 134–137.

⁶² IBN AL-QAYYIM, *Iʿlām al-Muwaqqiʿin ʿan Rabb al-ʿAlāmīn*, Beirut 1991, cit. in AL-BISHRĪ, *supra* n. 48, at 137–139.

⁶³ AL-BISHRĪ, *supra* n. 48, at 140–142.

⁶⁴ IBN AL-QAYYIM, *Aḥkām Ahl al-Dhimma*, Vol. 1, Dammam 1997, at 450, cit. in AL-BISHRĪ, *supra* n. 48, at 146.

⁶⁵ *Lahum mā lanā wa-ʿalayhim mā ʿalaynā*. In the wider debate, this expression is actually widely challenged as to its origin and authenticity.

⁶⁶ AL-BISHRĪ, *supra* n. 48, at 153.

In order to address the question of the *wilāyāt 'amma*, al-Bishrī claims that the contemporary political community emerged with decolonization, and is therefore founded on the common resistance of Muslims and non-Muslims against the colonizer—it is this point which frames his post-colonial view on citizenship.⁶⁷

When it comes to the *wilāyat 'amma* of the imam, al-Bishrī posits that in traditional fiqh the extension of the imam's jurisdiction was tremendous and that both decision making and policy implementation depended on the individual will of the imam alone. Even the 'delegated minister' (*wazīr al-tafwīd*) in al-Māwardī's design had powers that not even the President, the Prime Minister or the entire Government would have in a contemporary system. Both posts, according to al-Māwardī, were open to Muslims alone.

Al-Bishrī thus contends that in contemporary constitutional design there is neither the same traditional concentration of powers, nor is any individual allowed to decide or act alone as the imam (or as even the *wazīr al-tafwīd*) used to in al-Māwardī's design. This holds true—maintains al-Bishrī—even in the administrative apparatus, where the work is divided among various individuals (and bodies) according to technical specialization.

From al-Bishrī's perspective, even if one such post with the same breadth of jurisdiction, individual decision making, and policy implementation as the imam or *wazīr al-tafwīd* were to exist, it would be limited in its operation by the constitution (and ordinary, and secondary legislation). Constitution making or legislating themselves are not in the hands of an individual, but are rather found in bodies where various individuals participate in the deliberation.

In al-Bishrī's view, the traditional autocratic powers of the imam are not found in contemporary constitutional systems, because these very powers are divided among many bodies and institutions, and the main political deliberations are left to communal—instead of individual—decision making.⁶⁸ If bodies replaced individuals (imams and *wuzarā' mufawwadhūn*) in the discharge of public functions (*tawallī al-wilāyāt al-'amma*), al-Bishrī argues that the individual requirement of adhering to Islam needs to be transferred onto the body. The body does not have a religion, but can have a *marji' iyya*, which he defines as the intellectual foundation to which the body resorts to when acting and the extent of its legitimacy over the people.⁶⁹ If the body has an Islamic *marji' iyya* (reference), then, claims al-Bishrī, its authority (*wilāya*) is Islamic according to law (*fiqh*).

Since the 1923 Constitution, the provision that Islam is the religion of the state was introduced on the suggestion of the mufti emeritus al-Muṭī'ī, and has been maintained ever since.⁷⁰ Such a provision in al-Bishrī's reading marks the authority of the state as Islamic, and thus allows all citizens—Muslims and non-Muslims alike—to fully participate in decision making and policy implementation on an equal footing. This resolves for him the issue of access of non-Muslims to key state posts and leading policy functions.

⁶⁷ AL-BISHRĪ, *supra* n. 48, at 154.

⁶⁸ AL-BISHRĪ, *supra* n. 48, at 156.

⁶⁹ *Al-aṣl al-fikrī al-marjū 'ilayh fīmā yuṣḍar 'anhā min nashāṭ wa-madā iltizāmihā bi-hādihā al-aṣl bi-ḥusbānih mawrid^{am} li-shar' iyyat wilāyatihā 'alā al-nās*. AL-BISHRĪ, *supra* n. 48, at 157.

⁷⁰ With the notable exception of the 1958 Constitution.

In addition to the effect of the Islamic reference on the grounding of the citizenship principle, the interaction between Article 2 (declaring Islam the religion of the state) and Article 1 (declaring the centrality of citizenship in the political system) signals to al-Bishrī that the constitution identifies as its *marjī 'iyya* not just any of the various possible Islamic readings, but the one embracing equality among citizens. It is an operation which, in al-Bishrī's view, is a form of preference (*tarjīh*) well-established in traditional scholarship as one of the prerogatives of the (political or judicial) authority (*walī al-amr*).⁷¹

Al-Bishrī's arguments in 'al-Jamā'a al-Waṭaniyya' (2014) raise more questions than they answer. But they speak to the driving desire to ground in Islamicate discourse a reconciled reading of citizenship that can meet organic intellectuals half way: "we accept the participation of non-Muslims as long as Islam is established." By doing so, traditional intellectuals confirm their positioning and seal the hegemonic consensus on the restriction of the debate on citizenship to issues of religious (in)equality.

V. Conclusion

Citizenship offers a good vantage point to observe how cultural hegemony has been constructed in Egypt since the 1920s. Citizenship is however just one instance of how non-coercive forms of domination were articulated, and they stretched far beyond citizenship onto the structures of the post-colonial state and its governance system.

The article focused on the positions of traditional intellectuals in order to shed light on their contribution to the construction of cultural hegemony, while the ruling class and its organic intellectuals were heavily engaged with structuring the nationalist project. The three phases of the debate allow us to appreciate how the positions shifted over time, but these shifts should not distract us from the consolidation of consensus over what citizenship meant—a consensus that was taking shape in the background.

In the first phase (the counter-hegemonic inception phase), the debate started as a counter-hegemonic challenge by traditional intellectuals to organic intellectuals and their nationalist ideologies (over the century both the local *waṭaniyya* and the wider *qawmiyya*). The challenge was brought by traditional intellectuals on citizenship, because it was perceived as a playing field that was unfavorable to organic intellectuals: "equality irrespective of religious affiliation, or citizenship (*muwāṭana*). The traditional intellectuals must have thought that it was an element of the nationalist project that could not fly with the wider Egyptian public, and counted on widespread 'consensus' against such a principle. When this challenge did not work, traditional intellectuals experimented with forms of accommodation until it was the organic intellectuals who, spearheaded by the ruling party, decided in the third phase to re-engage traditional intellectuals on the same playing field. Beginning in the accommodation phase and continuing through the counter-challenge third phase, the contention between traditional and organic intellectuals seems to fade, giving way to an overarching consensus on the post-colonial state and its structures of governance.

⁷¹ AL-BISHRĪ, *supra* n. 48, at 158.

In the counter-challenge phase, revamping the contention with traditional intellectuals was at the heart of the political project of President Mubārak’s son Jamāl, who mobilized organic intellectuals. The counter-challenge—which suffered from the personal political successes and defeats of Jamāl Mubārak—did not affect the core of the hegemonic consensus over what citizenship means (in Egypt). Al-Bishrī’s contribution confirms that the hegemonic consensus even went through the 2011 uprising and the 2013 coup unscathed, and seals such consensus *ex parte* traditional intellectuals by grounding it in Islamicate discourse.

At the heart of the hegemonic consensus is thus a discourse that fully occupies the public debate on citizenship with issues of religious (in)equality, and thus prevents any meaningful engagement with other key components of citizenship, like political participation, gender equality or class mobility. Both traditional and organic intellectuals contributed to the emergence and perpetuation of this hegemonic consensus, with traditional intellectuals showing a remarkable ability to work within Islam’s texts and traditions to dress it in ‘proper’ Islamic garments.⁷²

The partaking of traditional intellectuals in the construction of the hegemonic consensus constrains at once their ability to engage with both religious (in)equality, and wider citizenship issues in Islam’s texts and traditions. On religious (in)equality, for instance, the status of non-Muslim citizens not belonging to the canonical category of People of the Book is left hanging, or is—at best—discussed on the margins. Beyond the conventional equality core, traditional intellectuals constrain themselves not to explore and engage with other wider aspects of citizenship,⁷³ like the scope for participation in decision making for the Muslim citizen in the overall governance structure, how to address gender disparities, or rethink rigidities in class mobility. Even if traditional intellectuals think they are providing a counter-hegemonic discourse (as it might have been the case in the first phase), they are really participating in the construction of a hegemonic consensus that holds down even their potentials.

⁷² Part of the conventional reading of citizenship in the religious discourse is to articulate the discussions in terms of rights and duties (*al-ḥuqūq wa-l-iltizāmāt*). SHĀHĪN, *supra* n. 29, at 134.

⁷³ SHĀHĪN, *supra* n. 29, at 132.